



6712-01

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act of 1974; System of Records.

AGENCY: Federal Communications Commission.

ACTION: Notice of a New System of Records.

SUMMARY: The Federal Communications Commission (FCC or Commission or Agency) proposes to add a new system of records, FCC/OWD-2, Alternative Dispute Resolution (ADR) Program, to its inventory of records systems subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the Federal Register notice of the existence and character of records maintained by the agency. The FCC's Office of Workplace Diversity (OWD) will use this new ADR Program system to cover the personally identifiable information (PII) that is collected, used, stored, and maintained in an OWD database that is used for the FCC's ADR services.

DATES: This system of records will become effective on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Written comments on the system's routine uses are due by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The routine uses will become effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, unless written comments are received that require a contrary determination.

ADDRESSES: Send comments to Leslie F. Smith, Privacy Manager, Information Technology (IT), Room 1-C216, Federal Communications Commission, 445 12th Street SW, Washington, D.C. 20554, or to Leslie.Smith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, (202) 418-0217, or Leslie.Smith@fcc.gov (and to obtain a copy of the Narrative Statement that includes details of this proposed new system of records).

SUPPLEMENTARY INFORMATION: On March 1, 2017, the FCC's Chairman launched a "Don't Escalate, Choose to Mediate" campaign to promote the voluntary use of Alternative Dispute Resolution

(ADR) to resolve workplace disputes. As part of the implementation of this initiative, this notice provides details about the proposed new system of records, FCC/OWD-2, Alternative Dispute Resolution (ADR) Program, which OWD will use to cover the PII that is stored in the ADR Program database that OWD will use in ADR Program services for FCC employees and other individuals at the FCC.

SYSTEM NAME AND NUMBER:

FCC/OWD-2, Alternative Dispute Resolution (ADR) Program.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Workplace Diversity (OWD), Federal Communications Commission (FCC), 445 12th Street, SW, Washington, D.C. 20554.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Office of Workplace Diversity (OWD), Federal Communications Commission (FCC), 445 12th Street, SW, Washington, D.C. 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Administrative Dispute Resolution Act, 5 U.S.C. 571; Civil Justice Reform, Executive Order 12988; 29 CFR §§ 1614.102(b)(2), 1614.105(f), 1614.108(b), and 1614.603.

PURPOSE(S) OF THE SYSTEM:

This system will cover the PII that is collected, used, stored, and maintained in the database of the OWD Alternative Dispute Resolution (ADR) Program database, which will provide a forum for the informal resolution of a variety of workplace disputes as an alternative to the formal procedures that employees traditionally use to resolve disputes. OWD will use the information to provide the ADR Program's processes, proceedings, and services to FCC employees and related individuals. Information on the disposition of each of the proceedings will also be maintained in this system's database.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals include, but are not limited to current and former FCC employees and other individuals who may be associated with the ADR Program's processes and proceedings related to disputes occurring in connection with their FCC employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in this system include, but are not limited to information that is required/requested on OWD's ADR Intake Form and all related documents, records, and files associated with the ADR process, including: the employee's name, home, work, and mobile telephone numbers, primary and secondary email addresses, home contact information, current position address, representative's name, address, and telephone number, Federal employee status (Y/N), current Federal employee position title and grade, individuals involved in the dispute, other formal/informal filings, the dispute description, each individual's involvement in the dispute, employee signature and request date.

RECORD SOURCE CATEGORIES:

The sources for the information in the ADR Program database include, but are not limited to the FCC employees and other individuals who are associated with the ADR Program's process and the records, files, and material(s) that are part of these ADR Program activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows. In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose(s) for which the records were collected:

1. Congressional Inquiries – To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

2. Government-wide Program Management and Oversight – To disclose information to the National Archives and Records Administration (NARA) for use in its records management inspections; to the Government Accountability Office (GAO) for oversight purposes; to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.
3. Adjudication and Litigation – To disclose information to the Department of Justice (DOJ), or other administrative or adjudicative bodies before which the FCC is authorized to appear, when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where DOJ or the FCC has agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, and the use of such records by DOJ or the FCC is deemed by the FCC to be relevant and necessary to the litigation.
4. Law Enforcement and Investigation – To disclose pertinent information to the appropriate Federal, State, and/or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the FCC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.
5. Labor Relations – To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 upon receipt of a formal request and in accord with the conditions of 5 U.S.C. 7114 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.
6. Employment, Clearances, Licensing, Contract, Grant, or other Benefits Decisions by the FCC – To disclose information to a Federal, State, local, foreign, tribal, or other public agency or authority maintaining civil, criminal, or other relevant enforcement records, or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to an investigation concerning the hiring or retention of an employee or other personnel action, the issuance

or retention of a security clearance, the classifying of jobs, the letting of a contract, or the issuance or retention of a license, grant, or other benefit by the Commission, to the extent that the information is relevant and necessary to the requesting agency's decisions on the matter.

7. FCC Functions – To disclose information to potential witnesses as appropriate and necessary to perform the FCC's functions under 29 CFR part 1614.
8. Breach Notification – To disclose information to appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
9. Assistance to Federal Agencies and Entities – To another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
10. For Non-Federal Personnel – To disclose information to contractors performing or working on a contract for the Federal Government, who may require access to this system of records.

REPORTING TO A CONSUMER REPORTING AGENCY:

In addition to the routine uses listed above, the Commission may share information from this system of records with a consumer reporting agency regarding an individual who has not paid a valid and overdue debt owed to the Commission, following the procedures set out in the Debt Collection Act, 31 U.S.C. 3711(e).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The information in this system includes:

1. Electronic records, files, and data that are maintained in a password protected database that is housed on the FCC computer network; and
2. Paper documents, records, and files that are stored in file cabinets in “non-public” rooms in the OWD office suite.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are filed alphabetically and retrieved by the last name of the FCC employee and other individuals and/or a corresponding ADR Program identity number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records kept by the FCC are maintained and disposed of in accordance with General Records Schedule (GRS) 2.3, items 10-12, issued by the National Archives and Records Administration (NARA):

10. ADR Program Files (program management and routine activities):

- Destroy when three years old, but authorization for longer retention if required for business use.

11. ADR case files – Informal process (associated with another employee dispute, complaint or grievance process):

- Destroy three years after case is closed, but authorization for longer retention if required for business use.

12. ADR case files – Formal process (generated in response to a referral from another dispute, grievance or complaint process, i.e., EEO complaints or grievances):

- Destroy seven years after case is closed, but authorization for longer retention if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

1. The electronic records, data, and files are maintained in a database housed in the FCC computer network databases. The FCC’s computer network is protected by the FCC’s IT privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to

meet all Federal IT privacy standards, including those required by the National Institute of Standard and Technology (NIST) and the Federal Information Security Modernization Act of 2014 (FISMA).

2. There are a limited number of paper documents, files, and records, which are stored in file cabinets in the OWD office suite. These cabinets are locked when not in use and/or at the end of the business day. All access points for the OWD office suite are monitored.
3. Furthermore, as part of the FCC's privacy safeguards, only authorized OWD supervisors, employees, and contractors, including IT contractors who manage the FCC's computer network may have access to the electronic data and the paper document files. Other FCC employees may be granted access on a "need-to-know" basis.

RECORD ACCESS PROCEDURES:

Individuals wishing to request an amendment of records about them should follow the Notification Procedure below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request an amendment of records about them should follow the Notification Procedure below.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information about them may do so by writing to Leslie F. Smith, Privacy Manager, Information Technology (IT), Federal

Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554 or

Leslie.Smith@fcc.gov.

Individuals must furnish reasonable identification by showing any two of the following: social security card; driver's license; employee identification card; Medicare card; birth certificate; bank credit card; or other positive means of identification, or by signing an identity statement stipulating that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000.

Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity and access to records (5 CFR Part 0, Subpart E).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

This is a new system of records.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison,

Office of the Secretary.

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